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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/726,034

12/01/2003

Oleg Shikhman

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EXAMINER

YABUT, DIANE D

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

02/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/726,034	Applicant(s) SHIKHMAN ET AL.	
	Examiner DIANE YABUT	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/01/2007 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-15 are rejected under 35 U.S.C. 102(a) as being anticipated by **Hillstead** (U.S. Patent No. **6,830,174**).

Claims 1, 3-7, 10-11: Hillstead discloses a trigger member **164** movable in a proximal and distal direction, and a safety button **166** that prevents motion of the trigger member until the safety button is depressed. The safety button is slidable from a first side to a

second side relative to the proximal and distal axis and the second side to the first side of the handle, wherein the first side is the side proximal of **146** and the second side is the side distal of **146**. The safety button includes pins (**172** or the top of **166**) extending through the first and second sides. Springs **176** and **170** (figure 2) can be said to surround the pins. The safety button includes two ribs **172** (both sides of safety button **166**) and the central portion **166** is considered the central or middle rib. Gaps separate these three ribs, as can be seen in figure 12.

Claims 8-9: The trigger member includes a safety button engaging member (figure 13) wherein when the safety button is not pressed, the engaging member abuts the central rib when an attempt is made to move the trigger. When depressed, the trigger member can be said to slide between the pair of ribs **172**. The safety button engaging member can be considered hook shaped (figure 13).

Claims 12-13: The handle includes "pockets" or open spaces to house the springs **176** and **170**. The pockets are large enough to house the pins and springs. Further, the trigger member **164** includes a spring receiving member (figure 17), and the handle assembly further comprises a trigger spring connected between the spring receiving member of the trigger and a protrusion within either of the sides (figure 17).

Claims 14-15: Hillstead further discloses an adjustment screw **136** that is capable of being shortened or lengthened only prior to securing the first side to the second side. The length of adjustment screw **136** determines the initial length of rod **118** extending from a distal end of the handle assembly.

4. Claims 1-3, 6-7 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by **Nobis** (U.S. Patent No. **5,137,198**).

Claims 1-3: Nobis discloses a trigger member **3** movable in a proximal and distal direction and a safety button **5**, wherein the trigger member is not movable until the safety button is depressed. The safety button is slidable from first and second sides relative to the proximal and distal axis of the handle assembly. The safety button includes a pin **121** having an engageable end and extending through either side of the handle assembly (figure 4).

Claims 6-7: The safety button includes ribs with gaps therebetween (figure 4).

Claim 13: Figure 4 shows a spring (near 55) and a corresponding spring receiving member. The spring is connected to the handle and the trigger member.

Response to Arguments

5. Applicant's arguments filed 11/01/2007 have been fully considered but they are not persuasive.

6. The applicant generally argues that neither Hillstead nor Nobis teaches a button device that slides from one side of the device to the other to disengage the trigger, wherein side to side is interpreted by the applicant as being to the side of the proximal/distal movement of the trigger, and the references instead teach triggering devices that pivot. Although the examiner agrees that both Hillstead and Nobis teach triggering devices that pivot, the cited art also teach trigger members movable in a

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proximal and distal direction and safety buttons slidable from the first side to the second side and from the second side to the first side, as required by claim 1. In Hillstead, compare the movement of the portion of the trigger 164 that is to be contacted or squeezed by the user at a distal direction (Figure 16) and a proximal direction (Figure 17), while the safety button 172 pivots when releasing the trigger (col. 8, lines 36-44), and therefore slides (relative to the device body on which it is mounted) from a first side and a second side. In Nobis, compare the movement of both the trigger 3 and the safety button 5, from a proximal position (Figure 3) to a distal position (Figure 4). In other words, the examiner maintains both references read on the limitations, and while the trigger and safety button may not move along the path of the longitudinal axis in a straight line, the beginning and end points of the moving portions of the trigger and safety button are positioned in proximal and distal directions or from a first side to a second side.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANE YABUT whose telephone number is (571)272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diane Yabut/

Examiner, Art Unit 3734

/Todd E Manahan/

Supervisory Patent Examiner, Art Unit 3731